

Summons in a Civil Action (Rev 11/97)

FILED

# United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

AUG 1 PM 12:26

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

LYMS, INC.; WENDY YOUNGREN  
AND CATHY MEANS AS SUCCESSOR  
TRUSTEES OF THE LYMS 401(K)  
SAVINGS PLAN VS

BRUCE MILLIMAKI AND MICHAEL  
EFFERT, FORMER TRUSTEES OF  
THE LYMS 401(K) SAVINGS  
PLAN; GARY BERMAN,  
INDIVIDUALLY,  
Defendants

BY:                      DEPUTY

## SUMMONS IN A CIVIL ACTION

Case No. 08-cv-1210-JLS-NLS

FIRST AMENDED COMPLAINT FOR BREACHES  
OF FIDUCIARY DUTY UNDER THE EMPLOYEE  
RETIREMENT INCOME SECURITY ACT  
("ERISA"), 29 U.S.C. Section 1001  
et seq.; NEGLIGENCE AND BREACH OF  
CONTRACT UNDER 29 USC Section 1367(a)

TO: (Name and Address of Defendant)

GARY BERMAN  
L & S PENSION SERVICES  
9747 BUSINESSPARK AVENUE  
SAN DIEGO, CA 92131

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and  
serve upon PLAINTIFF'S ATTORNEY

PETA LEWIS HALLISEY  
BRANTON & WILSON, APC  
701 B STREET, SUITE 1255  
SAN DIEGO, CA 92101

An answer to the complaint which is herewith served upon you, within 20 days after  
service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment  
by default will be taken against you for the relief demanded in the complaint.

W. Samuel Hamrick, Jr.

CLERK

JUL 29 2008

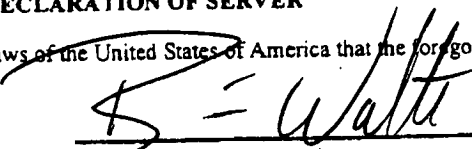
DATE

By

, Deputy Clerk

Summons in a Civil Action

Page 1 of 2

RETURN OF SERVICE			
Service of the Summons and Complaint was made by me		DATE July 25, 2008	
NAME OF SERVER Brian Walter		TITLE Process Server	
Check one box below to indicate appropriate method of service			
<input checked="" type="checkbox"/> XX	Served personally upon the defendant. Place where served: 9747 Businesspark Avenue San Diego, CA 92131		
<input type="checkbox"/>	Left copies thereof at the defendant's dwelling, house or usual place of abode with a person of suitable age and discretion then residing therein:		
Name of person with whom the summons and complaint were left: _____			
<input type="checkbox"/>	Return unexecuted:		
<input type="checkbox"/>	Other (specify):		
STATEMENT OF SERVICE FEES			
TRAVEL		SERVICES	TOTAL \$ 59.00
DECLARATION OF SERVER			
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service is true and correct.			
Executed on: 7/28/08		<div style="text-align: center;">             Signature of Server         </div>	
Date 7/28/08		92101 917 W. Grape St., San Diego, CA	
Address of Server			
NOTICE OF RIGHT TO CONSENT TO TRIAL BY A UNITED STATES MAGISTRATE			
<p>IN ACCORDANCE WITH THE PROVISION OF 28 USC 636(C) YOU ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE OF THIS DISTRICT MAY, UPON CONSENT OF ALL PARTIES, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT. COUNSEL FOR THE PLAINTIFF HAS RECEIVED A CONSENT FORM.</p> <p>YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE OR MAGISTRATE TO WHOM THE CASE HAS BEEN ASSIGNED BE INFORMED OF YOUR DECISION.</p> <p>JUDGEMENTS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.</p>			

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure